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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
08/056,029	04/30/93	BOYCE J	FM-112J

D-G

15M1/0723

IANDIORIO & DINGMAN
260 BEAR HILL ROAD
WALTHAM, MA 02154

EXAMINER	
SHELBORNE,	
ART UNIT	PAPER NUMBER
1502	19

DATE MAILED: 07/23/96

Please find below a communication from the EXAMINER in charge of this application.

Commissioner of Patents

Office Action Summary

Application No.	Applicant(s)
08/056,029	Boyce, Joseph et al
Examiner	**Group Art Unit**
Kathryne Shelborne	1502

☒ Responsive to communication(s) filed on *Apr 23, 1996*.

☒ This action is **FINAL.**

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire *3* month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) *1-24* is/are pending in the application.

Of the above, claim(s) *5, 8, 20, 21, and 23* is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) *1-4, 6, 7, 9-19, 22, and 24* is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 3, 6, 9, 10, 12, 16, 18, 22 and 24 are rejected under 35 U.S.C. § 102(b) as being anticipated by Born et al for the reasons stated in the last office action in paper no. 17.

Claims 1, 3, 9, 10, 12, 16, 18, 22 and 24 are rejected under 35 U.S.C. § 102(b) as being anticipated by 783035 Publication for the reasons stated in the last office action in paper no. 17.

Claims 2, 7, 11 and 17 are rejected under 35 U.S.C. § 103 as being unpatentable over Born et al for the reasons stated in the last office action in paper no. 17.

Claims 1-4, 6, 7, 9-19, 22 and 24 are rejected under 35 U.S.C. § 103 as being unpatentable over Holko in view of Born et al, Allum et al and 783035 Publication.

Applicant's arguments filed 4-23-96 have been fully considered but they are not deemed to be persuasive.

Applicants' argue that Born does not teach or suggest using extrinsic reinforcing elements of sufficient length to extend through the thickness of each plastic rod in a direction transverse to the direction to fibers inherent in the rods and that Born does not teach or suggest inserting additional extrinsic reinforcing elements through the thickness of each adherend. The Examiner disagrees.

Born discloses that with his design it is possible to join high strength flexible round plastic rods containing inlays

composed of many continuous glass fibres. Fibres project from a face. Additional reinforcements are arranged between the joined faces. (Note column 2, lines 32-47). This in itself is essentially what the applicants are claiming.

Applicants' argue that '035 is non-analogous art, it has been held that the determination that a reference is from a non-analogous art is two-fold. First, we decide if the reference is within the field of the inventor's endeavor. If it is not, we proceed to determine whether the reference is reasonably pertinent to the particular problem with which the inventor was involved. In re Wood, 202 USPQ 171, 174.

In this case, the reference relates to a reinforced joint each including an array of inherent fibers in a rubber packing (resin), which is within the field of the inventor's claimed endeavor. Applicants' argue that the intrinsic strands shown in the '035 publication are exposed in contrast to inserting extrinsic reinforcing elements through the thickness of the conveyor belt which is probably impossible since rods or fibers could not be inserted through a conveyor belt. The Examiner disagrees since, the reference specifically teaches that these ropes are arranged so that they overlap and a rubber packing is placed in the intervening spaces.

In response to Applicant's analysis of the combined references, it has been held that one cannot show non-obviousness by attacking references individually where, as here, the rejections are based on combinations of references. *In re*

Keller, 208 USPQ 871 (CCPA 1981).

The applicants pointed out alleged differences between the claimed invention and that of Born et al and 783035 Publication. The examiner is not convinced as discussed above. Therefore, since the examiner fails to see why when the applicants are using similar materials as the references would produce a product different from that of the references. The examiner, therefore contends that there is no evidence showing that patentably significant differences exist between the product of the reference and that claimed by the applicants.

The examiner is also of the opinion that a prima facie obviousness has been established. Thus, there is no support for the claimed arguments that the alluded to distinctions are patentably significant. Therefore, the burden of proof is shifted to applicants as in In re Fitzgerald et al, 205 USPQ 594.

Again, there is no concrete evidence that the applicants' product is patentably different from the products of the references. Therefore, it is submitted that the references are maintained as anticipated under 35 USC 102 and obviousness under 35 USC 103.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE

PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathryne E. Shelborne whose telephone number is (703) 308-3627. The Examiner can normally be reached on Monday-Friday from 7:30 a.m. to 4:00 p.m.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Thurman K. Page, can be reached on (703) 308-2927. The fax number for this Group is (703) 305-5408.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-2351.

Kathryne E. Shelborne
Patent Examiner

Friday, July 19, 1996

THURMAN K. PAGE
SUPERVISORY PATENT EXAMINER
ART UNIT 152